

Date: March 20, 2000

DSL-BQA-00-029

To: Hospices

HSPC 12

From: Jan Eakins, Chief
Provider Regulation and Quality Improvement Section

cc: Susan Schroeder, Director
Bureau of Quality Assurance

Waiver of Certain Staffing Requirements within the Medicare Hospice Program
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The purpose of this memo is to provide information received from the federal Health Care Financing Administration, Chicago Regional Office. The attachment provides guidance for how a hospice program not located in an urbanized area can request waiver consideration of the requirement to provide dietary counseling services directly.

If you have any questions regarding this information, please contact Barbara Woodford at (608) 264-9896, Juan Flores at (608) 261-7824 or Jane Walters at (608) 267-7389.

Attachment

HEALTH CARE FINANCING ADMINISTRATION
Chicago Regional Office, Midwest Consortium

Electronic Regional Program Letter

DATE: May 5, 1999

FROM: HCFA, Chicago Regional Office
Division of Survey and Certification

SUBJECT: Waiver of Certain Staffing Requirements Within the Medicare Hospice Program - ACTION

TO: State Survey Agency Directors

The purpose of this memorandum is to inform you that, effective August 5, 1997, as a result of legislation enacted by the Balance Budget Act (the Act) of 1997, Section 1861(dd)(5) of the Act has been modified to allow the Health Care Financing Administration (HCFA) to permit certain waivers of the requirements that the hospice make physical therapy, occupational therapy, speech language pathology services, and dietary counseling available (as needed) on a 24-hour basis.

HCFA is also now allowed to waive the requirement that hospices provide dietary counseling directly. These waivers are available only to an agency or organization that is located in an area which is not an urbanized area (as defined by the Bureau of Census) and that can demonstrate to HCFA that it has been unable, despite diligent efforts, to recruit appropriate personnel. Hospices will be required to submit evidence to establish "diligent efforts." HCFA will use the requirements for the nursing services waiver found at 42 CFR 418.83(a)(3) in determining that a hospice has made a diligent effort. The waiver requirements in 42 CFR 418.83(a)(3) are as follows:

(3) Evidence that a hospice made a good faith effort to hire nurses, including: (i) Copies of advertisements in local newspapers that demonstrate recruitment efforts; (ii) Job descriptions for nurse employees; (iii) Evidence that salary and benefits are competitive for the area; and (iv) Evidence of any other recruiting activities (e.g., recruiting efforts at health fairs and contacts with nurses at other providers in the area).....

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In 1997, The Center for Health Plans and Providers sent a Program Memorandum to Medicare fiscal intermediaries (FI) directing that waiver applications be submitted to the Office of Clinical Standards and Quality (OCSQ) in Baltimore. In 1998, OCSQ revised the Program Memorandum, which was again addressed to the FIs, directing that waivers be sent to the HCFA Regional Offices. This process is being revised still again to indicate that all waivers be sent to the State agency

The hospice's request for a waiver should be submitted in writing to the State agency. The hospice must include evidence that it made a good faith effort to provide the service(s) they are requesting to be waived. **The SA is responsible for recommending approval or disapproval of the requested waiver to the Regional Office within 30 days of receiving it. The waiver shall be deemed granted unless the waiver request is denied by the Regional Office within 60 days after the date the SA received the request (42 CFR 418.83(b)).**

Written notices of acceptance or denial of waivers will be sent to the hospice program that requested the waiver. Waivers will remain effective for one year. This material will be incorporated in the State Operations Manual at the earliest possible date.

If you have any questions or issues concerning this policy, please contact me or your Principal Program Representative.

/s/

Charles Bennett
Branch Manager
Survey and Certification
Coordination and Improvement